It is not denied that the defendants had been picketing and had been using some tents and sheds for that purpose and the point in controversy is the place where these were erected. I am disposed to accept the evidence of P.W.1 that it is a part of the estate marked with a blue cross in P12 and this is borne out by the photographs D34 and D35. The local law on picketing is set out in section 4 of the Trade Disputes Ordinance, 1949, which is as follows:—

"It shall not be unlawful for one or more persons acting on his or their own behalf or on behalf of a registered trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute to attend at or near a house or place where a person resides or works or carries on business or happens to be or the approach to any such house or place

(a) merely for the purpose of peacefully obtaining or communicating information; or

(b) merely for the purpose of peacefully persuading or inducing any person to work or abstain from working:

Provided that if such person or persons so attends or attend in such numbers or otherwise in such manner as to be calculated

(a) to intimidate any person in that house or place; or

(b) to obstruct the approach thereto or egress therefrom; or

(c) to lead to a breach of the peace;

such attending as aforesaid shall be unlawful and shall be deemed to constitute an offence under paragraph (d) of section 3 of this Ordinance."

This is identical in language with section 5 of the Singapore Trade Disputes Ordinance, 1941. In the case of *Gleneagles Hotel Ltd.* v. *Wong Jue Whee & 38 Ors., supra,* Whitton J. held that the words "at or near" in section 5 of the Trade Disputes Ordinance, 1941, cannot mean "in". I respectfully adopt his Lordship's interpretation of those words. For this reason, I hold that by continuing to keep the tents and sheds on the plaintiffs' land the defendants were also committing acts of trespass.

In the result, I find the plaintiffs are entitled to the relief claimed.

I make an order:—

(1) that the defendants and all persons holding through or under them do quit and vacate the labourers' quarters now occupied by them at Third Mile Estate, Tampin Road, Seremban, forthwith;

(2) that the defendants demolish all the sheds and tents erected by them on the said Third Mile Estate and remove therefrom all furniture, fittings, utensils and all materials of whatever nature they may be;

(3) that the defendants do pay damages to the plaintiffs which I assess at $50 in the case of each defendant.

The plaintiffs will have the costs of the action.

Claim allowed.

Solicitors: *Kamala Devi & Co.; P. G. Lim.*

DOSHI v. DOSHI

[O.C.J. (Winslow J.) September 2, 1965]

[Singapore — Divorce No. 36 of 1965]

Husband and wife — Divorce — Jurisdiction — Marriage solemnised outside Singapore in 1957 — Women's Charter, 1961 ss. 82(1) & 166.

Legislation — Revised Edition of the Laws (Annual Supplements) Ordinance, 1956, ss. 4 & 8 — Conclusiveness of Annual Supplement.

The petitioner, a Singapore citizen with a Singapore domicile, asked for dissolution of his marriage with the respondent which took place in Ipoh according to Hindu rites in May 1957 on the ground of her desertion since December 1960. The divorce was uncontested and the petitioner proved desertion. The only question was whether his marriage to the respondent was a marriage which the court had jurisdiction to dissolve because the Annual Supplement to the Laws of Singapore for 1961 issued in 1964 had altered section 166 of the Women's Charter as originally enacted, by limiting the application of that section to such marriages as are solemnized "in Singapore" before the "coming into operation" of the Charter, i.e. September 15, 1961.

For the petitioner it was argued that in adding the words "in Singapore" to section 166, Women's Charter in the Annual Supplement, 1961, the State Advocate-General had altered the law and thereby exceeded his powers under section 4 of the Revised Edition of the Laws (Annual Supplement) Ordinance, 1956. The words of section 8, it was contended, were ineffective to exclude a review of the Annual Supplement on jurisdictional grounds. It was further argued that the case of the *Reference under section 325 of the Land Code*[1] was wrongly decided to the extent that it sought in effect to equate a resolution of the Federal Council with an Enactment passed in due form. The learned judge then adjourned the petition for further argument stating that he would like to hear the State Advocate-General before deciding the issue.

Held: section 8(1) of the Revised Edition of the Laws (Annual Supplements) Ordinance in effect, provides for the "sanctity" of an Annual Supplement only in respect of Ordinances enacted in the year immediately preceeding the date of its issue. As the 1961 Annual Supplement was issued only in 1964 no reliance could be placed on section 8 for the contention that it shall be "without any question whatsoever in all courts of justice and for all purposes whatsoever the sole and only proper Statute Book of the State." Therefore recourse can be had only to the Ordinance as originally enacted which does not, in section 166, contain the words "in Singapore". The marriage was therefore deemed to be registered under the provisions of sections 82(1) and 166 of the Charter and a decree *nisi* should be pronounced to be made absolute after the expiration of 3 months.

Case referred to:—

(1) *Reference under section 238 of the Land Code* [1937] M.L.J. 9.

In addition, the following cases were cited in argument: *Andrews* v. *Mitchell* [1905] A.C. 78; *Institute of Patent Agents* v. *Lockwood* [1894] A.C. 347; *Minister of Health* v. *R., ex p. Yaffe* [1931] A.C. 494; *The King* v. *Electricity Commissioners* [1923] 1 K.B. 171 and *Bowles* v. *Bank of England* [1913] 1 Ch. 59.

DIVORCE.

Punch Coomaraswamy for the petitioner.

Lee Boon Siong for the respondent.

Ho Thian Cheh for the State Advocate-General, *amicus curiae.*

Winslow J.: The petitioner, who is a Singapore citizen with a Singapore domicile, asks for dissolution of his marriage with the respondent on the ground of her desertion since December, 1960, being more than three years from the date of the presentation of his petition.

The divorce was uncontested and the petitioner proved desertion.

The only question which arises is whether his marriage to the respondent, which took place in Ipoh according to Hindu customary rites in May, 1957, is a marriage which this court has jurisdiction to dissolve.

Section 82(1) of the Women's Charter, 1961 (Ordinance No. 18 of 1961) provides that, apart from the fact that the parties must have a Singapore domicile, the marriage must either have been registered or be deemed to be registered under the provisions of the Charter if it is not a monogamous marriage.

A marriage is deemed to be registered under secion 166 of the Charter if it was solemnized, under any law, religion, custom or usage, prior to 2nd March, 1961, and is valid under such law, religion, custom or usage.

This marriage is accordingly deemed to be registered under the provisions of the Charter.

A difficulty, however, arose because the Annual Supplement to the Laws of Singapore for the year 1961 issued in 1964 has altered section 166 as originally enacted, by limiting the application of this section to such marriages as are solemnized *in Singapore* before the *coming into operation* of the Charter viz., 15th September, 1961.

It was conceded by counsel on behalf of the State Advocate-General that the alteration effected by the words in italics above is not authorised by the powers conferred on the State Advocate-General as Commissioner by section 4 of the Revised Edition of the Laws (Annual Supplements) Ordinance, 1956 (No. 10 of 1956), but it was sought, at one stage, to justify the conclusiveness of the 1961 Annual Supplement by reference to section 8 of the Ordinance of 1956 above which provides —

"8. (1) The Yang di-Pertuan Negara may, by notification in the *Gazette*, approve of each Annual Supplement upon the issue thereof and order that it shall come into force from such date as he thinks fit. From the date named in such notification the Annual Supplement shall except to the extent, if any, to which it shall be superseded by the next or any subsequent Annual Supplement, be deemed to be and shall be without any question whatsoever in all courts of justice and for all purposes whatsoever the sole and only proper Statute Book of the State of Singapore in respect of the Ordinances enacted between the 1st January and the 31st December inclusive of the year immediately preceding the date of issue and in respect of the subsidiary legislation included therein."

Mr. P. Coomaraswamy, counsel for the petitioner, argued that the case of the *Reference by the Registrar of Titles, Selangor, under section 238 of the Land Code, Cap. 138 (Selangor Civil Application No. 33 of 1936)*[1] was no authority for holding that the Annual Supplement was the sole and proper Statute Book of the State and tried to persuade me to hold that it was wrongly decided.

It is not necessary for me to say whether it was rightly or wrongly decided. For the purposes of this petition, it is sufficient to note, as I pointed out to Mr. Ho Thian Cheh, the State Advocate-General's representative, that section 8(1) in effect, provides for the "sanctity" of an Annual Supplement only in respect of Ordinances enacted in the year immediately preceding the date of its issue. The 1961 Annual Supplement was issued only in 1964 and reliance cannot, therefore, be placed on section 8 for the contention that it shall be "without any question whatsoever in all courts of justice and for all purposes whatsoever the sole and only proper Statute Book of the State . . . ".

This was conceded by Mr. Ho and recourse can, therefore, be had only to the Ordinance as originally enacted which does not, in section 166, contain the words "in Singapore". It is true that the marginal note does, but it was submitted by Mr. Ho that it did not control the words of the section and that I could, therefore, ignore it, as in fact had been done by the courts prior to the issue of the 1961 Annual Supplement.

I, therefore, pronounced a decree *nisi* to be made absolute after the expiration of three months in the absence of an appeal or intervention.

Order accordingly.

Solicitors: *Braddell Bros.; Drew & Napier.*

PONNUSAMI v. RATNAM & THE GOVERNMENT OF MALAYSIA

[O.C.J. (Ong Hock Sim J.) September 10, 1965]

[Penang — Summons-in-Chambers No. 246 of 1965 in Civil Suit No. 78 of 1965]

Practice and Procedure — Parties — Substitution of defendant — Public Authorities Protection Ordinance, 1948 — R.S.C. 1957, O. 16 r. 12.

Government Suits — Plaintiff's right of action — Whether barred by Public Authorities Protection Ordinance, 1948, s. 2.

The plaintiff sued the driver of a government vehicle and the Penang State Government his employer for damages arising out of an accident. After the expiration of one year Hepworth J. allowed an application under R.S.C. O. 16 r. 12 by the plaintiff to substitute the Government of Malaysia in place of the Penang State Government as second defendant. The second defendant then applied to set aside the writ on the ground that the plaintiff's right of action was barred by section 2 of